IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 15TH MAY 2007 / 25TH VAISAKHA 1929

WP(C).No. 9218 of 2007(V)

PETITIONER:

KERALA PRIVATE MEDICAL COLLEGE
MANAGEMENT ASSOCIATION, REPRESENTED BY ITS
SECRETARY-GEORGE PAUL, AJAY VIHAR,
M.G.ROAD, COCHIN-682 016.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM

RESPONDENTS:
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1. STATE INFORMATION COMMISSIONER,
PUNNEN ROAD, TRIVANDRUM.

2. THE PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, GOVT. SECRETARIAT
ANNEX, TRIVANDRUM.

3. THE SECRETARY TO GOVERNMENT,
HEALTH & FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
TRIVANDRUM.

4. THE DIRECTOR OF MEDICAL EDUCATION,
TRIVANDRUM.

BY GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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Writ Petition (Civil) No. 9218 of 2007 (V)

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Dated this the 15th day of May 2007.

J U D G M E N T

The grievance of the petitioner is that in spite of repeated requests made by them to the authorities under the Right to Information Act 2005, the information sought for has not been furnished.

2. It is stated that the members of the petitioner are educational agencies which have established Self Financing Medical Colleges in the State and that right from the inception, there have been controversies regarding the fee structure followed by the respective colleges. Ultimately, in order to resolve this controversy, in pursuance to the provisions contained in Act 19 of 2006, the Government appointed a committee, known as Justice P.A. Mohammed Committee. According to the petitioner the data furnished by their member colleges regarding the actual expenditure incurred by them for maintaining the institutions is not found acceptable to the authorities concerned. In such circumstances, petitioner considered it necessary to make use of the data regarding the per capita cost incurred by the State in providing the medical education, while the Justice P.A. Mohammed Committee is finalizing the fee structure for their member colleges.

3. It is stated that in the context of the cost incurred by the State in providing medical education, the Department of Higher Education, Department of Health & Family Welfare and the Directorate of Medical Education, are the concerned departments of the State Government. Seeking information regarding the per capita cost incurred by the State, petitioner submitted Exts.P1, P2 and P3 applications to the head of the aforesaid departments. It is stated that by Ext.P4, the State Public Information Officer, Higher Education Department responded to Ext.P1 stating that the same has been forwarded to the Department of Health & Family Welfare for necessary action. According to the petitioner the Directorate of Medical Education gave Ext.P5 reply stating that they have not so far undertaken any scientific study or collection of statistics in regard to the expenditure incurred by the State per student per annum. Petitioner pursued the matter with the Secretary, Department of Health & Family Welfare by filing Ext.P6, which is stated to have not evoked any response from that Department.

4. Heard the learned Government Pleader for the respondents.

5. According to the petitioner as the information sought for by it was not furnished within 30 days in terms of Section 7 of the Act, due to the failure of respondents 2 to 4 in furnishing the information, Section 7 (2) applies and the request should be deemed to have been refused. It is also stated that the petitioner made Ext.P7 complaint before the 1st respondent under Section 18(1) of the Act, which also has not been acted upon so far. It is in the aforesaid circumstances that complaining of violation of the provisions of the Right to Information Act 2005 that this writ petition has been filed praying for

directing the respondents to furnish the information sought for in Exts.P2 and P6. Petitioner also seeks a direction to the 1st respondent to take follow up action on Ext.P7.

6. Among the requests made by the petitioner, at least Ext.P1 made to the 2nd respondent, who is stated to be a member of the Justice P.A. Mohammed Committee has been responded by Ext.P4, in which it stated that Ext.P1 has been forwarded to the Department of Health & Family Welfare for necessary action. Since the Department of Health & Family Welfare, to which Ext.P2 request and Ext.P6 reminder have been made, has not furnished the information within the time specified in Section 7 of the Act, there is deemed refusal as provided in Section 7(2) of the Act. In this background petitioner is well justified in approaching the 1st respondent by filing Ext.P7 complaint under Section 18 of the Act. Since the petitioner has already approached the 1st respondent, I am not inclined to direct that further action should be taken on Exts.P2 and P6.

7. The further complaint of the petitioner is that even Ext.P7 has not been acted upon by the 1st respondent. It is to be remembered that Section 3 of the Act confers on all citizens the right to information, subject to the provisions of the Act. None of the authorities have so far claimed any exemption from disclosure of the information sought for by the petitioner and therefore I proceed on the basis that the entitlement of the petitioner has not been disputed. The 1st respondent has been appointed under Section 15 of the Act, and has been conferred with the power to deal with complaints regarding inaction on the part of Information Officers appointed under the Act.

As I have already stated, Ext.P7 is such a complaint filed by the petitioner invoking the jurisdiction of the 1st respondent under Section 18 of the Act. If Ext.P7 has been received by the 1st respondent, I can't find any justification for the inaction the 1st respondent on the complaint made by the petitioner. This, to say the least, is a failure on the part of the 1st respondent in discharging its statutory duties.

8. In the aforesaid circumstances, I dispose of the writ petition directing the 1st respondent to take up Ext.P7 complaint filed by the petitioner, consider the same on its merits and pass appropriate orders thereon, with notice to the petitioner. In view of the urgency of the matter highlighted in the writ petition, it is further directed that orders on Ext.P7 shall be passed within three weeks of receipt of a copy of this judgment.

9. Petitioner is directed to produce certified copy of this judgment before the 1st respondent for compliance.

Writ petition is disposed of as above.

Antony Dominic
Judge.

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